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**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PENDLETON DIVISION**

BENJAMIN GABRIEL,

Plaintiff,

vs.

MARTIN O'MALLEY,
Commissioner of the Social Security
Administration,

Defendant.

Case No. 2:23-cv-00195-MTK

**ORDER GRANTING PLAINTIFF'S
PETITION FOR EAJA FEES**

BEFORE THE COURT is Plaintiff's motion for an award of attorney fees pursuant to the Equal Access to Justice Act (EAJA), 28 U.S.C. §2412. (Ct. Rec. 20.) Attorney CHAD HATFIELD represents Plaintiff, United States Attorney for the District of Oregon, Natalie Wight, Civil Division Chief, Kevin Danielson and Special Assistant United States Attorney Julie Cummings, represent the Defendant.

On August 27, 2024, this Court issued its PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT/ORDER GRANTING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT and reversed the decision for immediate award of benefits (Ct. Rec. 18/19). Plaintiff now moves for an award of attorney fees pursuant to EAJA (Ct. Rec. 20.)

The EAJA provides for an award of attorney fees to private litigants who both prevail in civil actions (other than tort) against the United States and timely file a petition for fees. 28 U.S.C. §2412(d)(2)(A). Under the EAJA, the court shall award attorney fees to the prevailing party unless it finds the government's position was "substantially justified or that special circumstances make such an award unjust." 28 U.S.C. §2412(d)(1)(A).

Plaintiff seeks attorney fees of \$8,395.58 based on an attorney fee rate of \$234.95 per hour for 2.0 hours in 2022, \$244.62 per hour for 24.7 hours worked in 2023, and 7.7 hours worked in 2024. Accordingly, after review,

IT IS ORDERED:

(1) The Plaintiff's Motion (Ct. Rec. 20.) is **GRANTED**. The Commissioner is directed to pay Plaintiff EAJA fees of \$8,395.58.

(2) The award to plaintiff shall be delivered or otherwise transmitted to plaintiff's attorney of record. Address for the attorney for the Plaintiff:

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(3) EAJA fees, expenses, and costs are subject to any offsets allowed under the Treasury Offset Program (TOP), as discussed recently in *Astrue v. Ratliff*, ____ U.S. ____ (2010), 130 S. Ct. 2521, 2522 (2010). No costs or expenses are awarded.

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1 (4) The District Court Executive is directed to file this Order, provide a copy to
2 plaintiff as the prevailing party, plaintiff's counsel, and defendant's counsel, and **CLOSE** the
3 file.
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5 **IT IS SO ORDERED.**

6 DATED this 3rd day of December 2024.
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8 s/ Mustafa T. Kasubhai
9 MUSTAFA T. KASUBHAI (He / Him)
10 United States District Judge
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